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Remarks

Claims 1-20 are pending in the application.

Claims 1-20 are objected to for an informality.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayley (US 6,775,252, hereinafter "Bayley") in view of Ngan (U.S. 7,197,288, hereinafter "Ngan").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the

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original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Objection to Claims 1-20

Claims 1-20 are objected to because of the recitation of "a method for assigning PN". The Examiner has required that the letters "PN" be spelled out. Applicant has corrected claims 1-20 as suggested by the Examiner.

Therefore, the objection should be withdrawn.

Rejection Under 35 U.S.C. 103

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayley in view of Ngan. The rejection is traversed.

According to MPEP §2143, to establish a *prima facie* case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Bayley and Ngan fails to teach or suggest all the claim elements.

Bayley fails to teach or suggest all the claim elements of independent claim 1. Specifically, Bayley does not teach "determining a minimum delay offset between PN offsets that will avoid signal collision when PN offsets are assigned to adjacent sectors of the same cell," or "applying delay offsets of no less than the minimum delay offset between PN offsets assigned to adjacent sectors of the same cell." The Office Action asserts that these limitations are taught by Bayley col. 11, line 29 through col. 3, line 53, but this is incorrect. Bayley is not in any way directed toward sectors, much less "applying delay offsets of no less than the minimum delay offset between PN offsets

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assigned to adjacent sectors of the same cell.” In fact, Bayley never mentions *sectors*, or any type of sectorized architecture at all. Instead, any reference to PN offset in Bayley strictly refers to offsets between different base-stations (cells).

Even the passage of Bayley cited by the Office Action begins by succinctly mentioning “two base stations 60, 64” (col. 11, lines 29-30), and continues to refer to those different base stations throughout the discussion. Base stations 60 and 64 are clearly shown in Bayley Figure 6 to be located remotely from each other, and each produce an omni-directional (as opposed to sectorized) coverage pattern. In contrast, the Figure and Table of the application clearly show a sectorized architecture, and more importantly, one with “minimum delay offset between PN offsets assigned to adjacent sectors of the same cell.” Thus, Bayley clearly does not teach the claim elements it is purported to.

Ngan fails to bridge the substantial gap between Bayley and Applicant’s invention recited in independent claim 1. The office action asserts that Ngan teaches “applying varied delay offsets between PN offsets assigned to sectors of different cells.” This is incorrect. When viewed in the context of the full claim and specification, “varied” distinguishes the PN offsets between sectors of *different* cells, as being different (varied) from “the minimum delay offset between PN offsets assigned to adjacent sectors of the *same* cell.” Merely designating varied offsets between sectors of different cells does not teach the invention as a whole. It is the end result of how the offsets are implemented in view of a particular set of limitations defining the invention, that establishes novelty. In the case of the invention, the offsets between different cells are implemented in view of “determining a minimum delay offset between PN offsets that will avoid signal collision when PN offsets are assigned to adjacent sectors of the same cell,” and “applying delay offsets of no less than the minimum delay offset between PN offsets assigned to adjacent sectors of the same cell.” Neither Bayley nor Ngan teach these limitations, which consequently causes them to have very different architectures than the invention.

Therefore, Applicant’s independent claim 1 is allowable over Bayley in view of Ngan under 35 U.S.C. 103(a). Independent claim 13 recites relevant limitations similar to those recited in independent claim 1. As such, for at least the same reasons discussed above, independent claim 13 also is allowable over Bayley in view of Ngan under 35

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U.S.C. 103(a). Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Bayley in view of Ngan. under 35 U.S.C. 103.

The Examiner is respectfully requested to withdraw the rejection.

Secondary References

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicant's disclosure than the primary references cited in the Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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